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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/542,648

07/19/2005

Tatsuya Hayakawa

124515

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25944 7590 03/19/2008

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EXAMINER

WILHELM, TIMOTHY

ART UNIT

PAPER NUMBER

3616

MAIL DATE

DELIVERY MODE

03/19/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|---------------------------------------|--|--|
| Office Action Summary | Application No. 10/542,648 | Applicant(s) HAYAKAWA ET AL. | |
| | Examiner Timothy D. Wilhelm | Art Unit 3616 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 12-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 15-20, 24-26 and 28 is/are rejected.
- 7) ☒ Claim(s) 11, 21-23, and 27 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 July 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/19/05 & 7/24/06</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of requirement of an election of species as set forth in the office action dated 11/23/2007 in the reply filed on 12/21/2007 is acknowledged. The traversal is on the ground(s) that the election of species was required for aspects of the invention that relate to dependent claims and not independent claims. This is not found persuasive because an election of species may be required for multiple embodiments of an invention pertaining to the dependent claims of the invention if said embodiments contain distinct technical aspects from each other. Because Examiner believes this to be the case, the election requirement is proper. It is also Examiner's belief that the rules that Applicant refers to with regards to independent claims are only applicable to restriction requirements and not election of species.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-10 and 16-20, and are rejected under 35 U.S.C. 102(b) as being anticipated by Hass (3,768,830). Hass discloses a knee protection apparatus for an occupant of a vehicle comprising an airbag 38 disposed in front of a knee of the

Art Unit: 3618

occupant; an inflator 20; and an airbag support 42 that expands upon deployment of the airbag 38 so as to cover an instrument panel 30 of the vehicle, wherein the airbag support 42 is attached to the airbag, wherein the airbag support includes a temporarily attached cut-off 54 that is detached from the airbag 38 upon deployment of the airbag 38, and wherein the airbag support includes an instrument panel side portion provided to one side of the airbag that is closer to the instrument panel and an occupant side portion provided to the other side of the airbag that is closer to the occupant.

4. Claims 1-6,16 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Cumming et al (4,290,627). Cumming et al disclose a knee protection apparatus for an occupant of a vehicle comprising an airbag 40 disposed in front of a knee of the occupant; an inflator 20; and an airbag support 42 that expands upon deployment of the airbag 38 so as to cover an instrument panel 30 of the vehicle, wherein the airbag support 42 is attached to the airbag through a guide stitch 65 that helps guide deployment of support 42, and wherein the airbag support includes an instrument panel side portion provided to one side of the airbag that is closer to the instrument panel and an occupant side portion provided to the other side of the airbag that is closer to the occupant.

5. Claims 1 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Saslekov (6,092,836). Saslekov discloses a knee airbag device comprising an airbag and an airbag support 13, which acts as a cover, a support, a guide, and helps cover the instrument panel when the airbag is inflated.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cumming et al in view of Budden et al (6,354,620). Cumming et al disclose the present invention except for a friction reducer between said airbag and said airbag support. Budden et al teach sealing textile fabrics with a silicone coat, which they disclose as “particularly useful for airbags”, to reduce friction. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the airbag and support of Cumming et al with the teaching of Budden et al’s silicone coated fabric to reduce friction of the airbag and support during deployment.

Allowable Subject Matter

8. Claims 11,21-23, and 27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy D. Wilhelm whose telephone number is 571-272-6980. The examiner can normally be reached on 9:00 AM to 5:30 PM Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 571-272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Timothy D Wilhelm
Examiner
Art Unit 3616

/Timothy D Wilhelm/

Application/Control Number: 10/542,648
Art Unit: 3618

Page 6

March 17, 2008

/Christopher Bottorff/
Primary Examiner, Art Unit 3618